

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRTIETH REGION

Milwaukee, Wisconsin

GKN SINTER METALS, INC.¹

Employer

and

Case 30-RC-6495

**UNITED AUTOMOBILE, AEROSPACE,
& AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA-UAW²**

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.³

The following employees of the Employer constitute an appropriate voting group for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:⁴

All full-time and regular part-time production employees, maintenance employees, shipping and receiving employees, and FML technicians at the Employer's Manitowoc facility; excluding inventory PM coordinators, process technicians, quality auditors, engineering technicians, quality analysts, team leaders, all other employees, guards and supervisors as defined in the Act.

¹The name of the Employer appears as amended at hearing.

²The name of the Petitioner appears as amended at hearing.

³The Employer and Petitioner filed post-hearing briefs that were duly considered. The hearing officer's rulings made at the hearing were free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction. The Petitioner, a labor organization within the meaning of Section 2(5) of the Act, claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

⁴At hearing, the Union and Employer stipulated to the inclusion of the following classifications – shipping employees, receiving employees, and FML technicians. The Union and Employer stipulated to the exclusion of the following classifications – inventory PM coordinator, process technician, quality auditors, engineering technicians, quality analysts and team leaders.

ISSUES

The issue presented at this hearing was whether the petitioned-for unit of employees, a single-facility, is an appropriate unit.

DECISION SUMMARY

I find that the Employer has not rebutted the single-facility unit presumption and that the petitioned-for unit in Manitowoc is an appropriate unit. In making my determination, I rely upon four factors: (1) lack of employee interchange between facilities, (2) geographic distance between facilities, (3) local autonomy of the Manitowoc facility to affect the terms and conditions of employment of the petitioned employees, and (4) dissimilarity between terms and conditions of employment. See *J&L Plate, Inc.*, 310 NLRB 429 (1993).

BACKGROUND

The Employer, GKN Sinter Metals, Inc., is a multi-national corporation engaged in the manufacture of sintered metal products throughout the world. At issue are five of the Employer's Wisconsin facilities located at the following addresses:

5710 Vits Drive, Manitowoc, WI (Manitowoc)

N112W18700 Mequon Road, Germantown, WI (Germantown)

N156N9305 Tipp Street, Menomonee Falls, WI (Menomonee Falls)

N92W15800 Megal Drive, Menomonee Falls, WI (Precision Machine)

N117W18880 Fulton Drive, Germantown, WI (Tool and Die).

The Employer purchased the above five facilities from Zenith Sintered Products in 1999. There are over 100 production, maintenance, shipping and receiving employees, and FML technicians at the Employer's Manitowoc facility.⁵

A. Geographic Distances

The Manitowoc facility is located in Northeastern Wisconsin, approximately 78 miles from the Employer's four other facilities in Germantown and Menomonee Falls, all of which are located in Southeastern Wisconsin. The Employer's four facilities in Germantown and Menomonee Falls are a few miles apart from each other.

B. Organizational Structure

The Employer's corporate offices are located in Germantown. Greg Kern, Vice President of Operations, works out of this facility. Reporting to Kern are five Plant Managers, each primarily working out of and responsible for their respectively assigned facility(ies) – Frank Szendry for Manitowoc, Bob Price for Germantown, Pat Fridley for Menomonee Falls and Precision Machine, and Greg Schnell for Tool and Die. Each facility has its own lower-level supervisors that are responsible for overseeing the day-to-day activities of the respective facility's employees.

Helen Breuer, Regional Human Resource Director, also works out of the corporate office at the Germantown facility. Reporting to Breuer are three Human Resource Managers, each primarily working out of and responsible for their respectively assigned facility(ies) – Vail Strauss for Manitowoc, Lisa Waltry for Germantown, and Mary Livingston for Menomonee

⁵The record is not clear as to how many employees in these classifications are at the other four facilities.

Falls and Precision Machining. Gloria Bader, although an Office Manager, has human resource responsibility for Tool and Die.

C. Employer's Production Facilities

Three of the Employer's facilities - Manitowoc, Germantown and Menomonee Falls - manufacture sintered products. "Sintering" is a production process that involves the compacting of powdered metal into a product, the subsequent heating of that product in furnaces, and the "coining" and/or "machining" of the product for improved quality or performance. Manitowoc regularly produces six products, each being automobile bearing caps or clutch plates, for General Motors. In the past, Germantown has also produced two of the above six parts for General Motors. However, it also produces non-automobile parts for other customers. Menomonee Falls produces sintered products for industrial, or non-automotive, customers.

The Employer's remaining two remaining facilities - Precision Machine and Tool and Die - do not produce sintered products. Precision Machining performs machining operations for the Germantown and Menomonee Falls facilities. The Tool and Die facility provides tooling and dies for the Manitowoc, Germantown, and Menomonee Falls facilities.

There is some centralization of operations among the five facilities. The corporate office is responsible for the purchasing of most items, dealing with customers, administering health and safety programs, and monitoring product quality.

D. Labor Relations

There is some centralization of management and human resources. For example, all employees, regardless of facility, share the same employee handbook, applications form and peer

review process. However, Manitowoc does exercises independent authority in hiring employees and distributing pay increases. Although the general authority to hire individuals may stem from the corporate office, Manitowoc independently selects candidates for open petitioned-for unit positions. Manitowoc supervisors and Stauss regularly attend job fairs and interview applicants for the Manitowoc facility. In interviews, they cover seven indicia to determine a candidate's suitability: (1) manufacturing experience, (2) physical capabilities, (3) knowledge of the Employer, (4) commitment to overtime, (5) general work availability (i.e. days of week), (6) shift preference and (7) date available for hire. In some instances, an offer of employment is made after this initial interview. If needed, a candidate may be called to a second interview, conducted by Manitowoc supervisors and Strauss, who, ultimately, decide whether to extend an offer of employment.

In the vast majority of instances, Manitowoc independently decides pay increase amounts for petitioned-for unit positions. When deciding pay increases, supervisors complete performance reviews for employees and submit the reviews to Strauss for approval. Strauss reads the reviews and recommends pay increases. On occasion, Strauss may meet with Szendry or the supervisor to discuss the increases. Strauss' pay increase recommendations are forwarded to Breuer for final approval. Only in rare instances has Breuer questioned Strauss' or Szendry's pay increase recommendations.

In cases of termination, there is greater centralization of human resource functions. In some instances, Strauss independently terminates employees prior to consulting with Breuer. These cases usually involve poor attendance or "flagrant" employee misconduct. In closer cases of termination, Strauss consults with Breuer prior to effectuating the employment decision. Strauss conducts an investigation and interviews relevant employee(s), supervisor(s) and

Szendry. After the investigation, if so determined, Strauss will recommend to Breuer that the employee be terminated. In most cases, Breuer concurs with Strauss' recommendation. However, Breuer does retain the authority, and has on occasion, rejected Strauss' recommendation. When rejecting recommendations, Breuer will consider the employee handbook, the respective plant work rules, and past practice among all five facilities.

E. Working Conditions

Petitioned-for Manitowoc employees share some terms and conditions of employment with employees at the other four facilities. All five facilities operate under the same employee handbook, share similar benefits, employ the same payroll date, and utilize the same peer review process and employee review committee. On the rare occasion of employee transfer, employees do not lose seniority or accumulated benefits. Also, there are no extraordinary skill levels that distinguish employees from one facility to another.

However, petitioned-for Manitowoc employees' terms and conditions of employment are dissimilar from the other employees in three discernible ways - different supervisors, different pay rates, and different working schedules. Manitowoc petitioned-for employees have different immediate supervision than the other facilities. This difference in supervision extends all the way to upper management, as each facility has its own plant manager. Manitowoc also has a different starting pay rate than the other four facilities. This difference is due to "local competitiveness factors." Finally, Manitowoc petitioned-for employees have a different start time than the other plants.

F. Employee Interchange

There is no regular interchange between Manitowoc petitioned-for employees and employees at the other four facilities. On a day-to-day basis, it is very rare for petitioned-for employees to interact with employees from the other four facilities.⁶ Also, there is no regular permanent employee interchange.⁷ The Employer posts at its facilities job openings for all non-entry level positions, regardless of location. Even with these multi-facility postings, there have only been a few employees that have been temporarily or permanently transferred into, or from, Manitowoc petitioned-for employee positions and the other four facilities.

ANALYSIS

A single-facility unit is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or it is so functionally integrated. See *J&L Plate, Inc.*, 310 NLRB 429 (1993). This presumption applies even where a larger, more comprehensive unit might also be found to be appropriate. See *Dixie Belle Mills, Inc.*, 139 NLRB 629, 631 (1962). To determine whether the presumption has been rebutted, the Board looks at such factors as central control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions and working conditions; degree of employee interchange; distance between locations; and bargaining history, if any. See *RB Associates, Inc.*, 324 NLRB 874

⁶The record reflects limited evidence of daily interaction. The Employer claims that its “Kaisen Events” - temporary trouble-shooting task forces created from a cross-section of employees - constitutes regular interaction. The record shows, however, that these meetings are irregular.

⁷The record reflects no evidence of production employees transferring into, or from, Manitowoc and the other four facilities. Evidence of other employee permanent or temporary interchange is primarily limited to one instance. At the time of its creation, Manitowoc hired seven maintenance employees that were trained at the Germantown facility. The record does not reflect how long this training period lasted. After the training, the maintenance employees were stationed and worked primarily out of Manitowoc and did not have any regular contact with employees at the other four facilities. Although the Employer characterizes the above as a “transfer,” the maintenance employees knew that they would be stationed at Manitowoc, leading me to find that they were only temporarily detailed for training.

(1997). The burden is on the party opposing that single-facility unit to present evidence overcoming the presumption. See *Id.*

I find that the Employer has not rebutted the single-facility unit presumption and that the petitioned-for unit in Manitowoc is an appropriate unit. In making my determination, I rely upon four factors: (1) lack of employee interchange between facilities, (2) geographic distance between facilities, (3) local autonomy of the Manitowoc facility to affect the terms and conditions of employment of the petitioned-for employees, and (4) dissimilarity between terms and conditions of employment.

More than any other factor, the lack of employee interchange between the facilities results in my finding that the single-facility unit is appropriate. The Board has held that minimal employee interchange and lack of meaningful contact between employees of different facilities is so relevant that it diminishes the significance of any evidence of other forms of functional integration. See 310 NLRB at 429. In this case, there is no regular interchange between Manitowoc petitioned-for employees and employees at the other four facilities. Most importantly, on a day-to-day basis, the petitioned-for employees rarely interact with employees from the other four facilities. Also of importance is that there is no regular permanent employee interchange. Only a few employees have been temporarily or permanently transferred into, or from, Manitowoc petitioned-for employee positions and the other four facilities.⁸

Much of the lack of interchange between Manitowoc and the Employer's other four facilities is no doubt due to the significant geographic separation between the locations. The

⁸The Employer contends that during "catastrophic" events such as machine malfunctions, employees have, in the past, gone to neighboring plants to assist. I do not find that this constitutes regular interaction or interchange for two reasons. First, these instances, by definition, are not regular occurrences. Second, even when occurring, there is little evidence of interaction between the employees.

Board has held that geographic distance is a factor to be considered when determining if a single-facility unit is appropriate. See *Capital Bakers, Inc.* 168 NLRB 904 (1968). Here, the Manitowoc facility is located in Northeastern Wisconsin, almost 80 miles from the nearest of the Employer's four other facilities located in Southeastern Wisconsin.

The Employer argues that the large distances between Manitowoc and the Employer's other facilities are inconsequential. To support its argument, it relies upon *Dattco, Inc.*, 338 NLRB No. 7 (2002), a case where the Board reversed a judge's finding that a single-facility unit was an appropriate unit. In *Dattco*, the Respondent operated a bus company with nine terminals in eight different cities. The union sought recognition in a unit of bus drivers and monitors. Although the distances between the facilities were, in some instances, up to 55 miles, the Board found that a multi-facility unit was the appropriate unit.

This case is easily distinguished. In *Dattco*, the unit sought was bus drivers and monitors – employees who, by the nature of their work, travel on a regular basis from terminal-to-terminal. A result of this travel was significant contact and interchange between employees. The interchange was so great that employees regularly reported to supervisors at more than one terminal on a daily basis. The Board relied upon this interchange in diminishing the importance of the distances between terminals:

Here...the employee interchange is substantial and the terminal manager at Hartford exercises much less authority over drivers based at the terminal. Specifically, 24 Hartford-based drivers are shuttled out to other terminals daily to service routes at those terminals. They are supervised by the managers of their receiving terminals daily in the performance of their work, and not by the Hartford terminal manager. In other words...the Hartford terminal is a labor pool that regularly supplies a significant amount of manpower to other terminals. We cannot find that the drivers and monitors at the Hartford terminal constitute a viable unit when fully one-third of the employees there do not actually work in the unit on a regular basis and are separately supervised by terminal managers

elsewhere. *This level of interdependence and interchange is significant...*
[Emphasis added] *Dattco, Inc.*, above at 2.

Unlike *Dattco*., this case has no regular interchange or meaningful contact between employees. The petitioned-for unit in this case is predominately production and maintenance employees – job classifications that are not mobile. As a result, the significant estimated 80 mile distance to the nearest facility is, obviously, a factor in this lack of interchange and an important consideration in my finding that the single-facility unit is appropriate.

In addition, I considered the local autonomy of the Manitowoc facility to affect the terms and conditions of employment of the petitioned-for employees. Direct control of local management to affect the hiring, firing and other terms and conditions of employment of employees are important considerations when determining the appropriateness of a single-facility unit. See *Penn Color, Inc.*, 249 NLRB 1117 (1980).

While there is some centralization of management and human resources, Manitowoc clearly exercises independent authority in hiring employees. Albeit the general authority to hire may stem from the corporate office, Manitowoc independently interviews and selects candidates for open petitioned-for employee positions. Manitowoc supervisors and Stauss regularly attend job fairs and interview applicants for the Manitowoc facility. In some instances, an offer of employment is made after this initial interview. If needed, the candidate may be called to a second interview, once again conducted by Manitowoc supervisors and Strauss, who, ultimately, decide whether to extend an offer of employment.

Manitowoc also exercises independence in offering pay increases to the petitioned-for employees. Prior to deciding increases, supervisors complete performance reviews. The reviews are then submitted to Strauss for approval. Strauss, who on occasion may meet with Szendry or

the supervisor to discuss the increases, reads the reviews and recommends pay increases. Strauss forwards her recommendations to Breuer for final approval. Only in rare instances has Breuer questioned Strauss' or Szendry's pay increase recommendations.

In some instances, Manitowoc has the authority to terminate petitioned-for employees. In cases of poor attendance or "flagrant" employee misconduct, Strauss will terminate the employee prior to consulting with Breuer. Admittedly, this independence is not applicable in closer cases of termination, where Strauss heavily consults with Breuer prior to making any employment decision.

Finally, although to a much lesser extent, I considered that there were differences in the terms and conditions of employment between Manitowoc petitioned-for employees and the other four facilities. Manitowoc employees have different immediate supervision and management than employees at the other facilities. Most importantly, these supervisors and managers affect the terms and conditions of employment of petitioned-for employees – namely by independently interviewing and hiring employees and implementing pay increases. Manitowoc employees are also unique in that they are paid slightly higher wages than employees at the other four facilities. Finally, Manitowoc is distinctive in that it has a different start time than the other four facilities.

In its brief, the Employer concedes that interchange between the petitioned-for employees and similar employees at the other four facilities "is not great," but argues that the integration of its operations between the plants is sufficient to rebut the single-facility unit presumption. Admittedly, there is similarity between the five facilities in business purpose, some product interchange, comparable employment policies and procedures, and centralization of some management functions. In support of its multi-facility argument, the Employer relies upon two

cases – *R&D Trucking, Inc.* 327 NLRB 531 (1999) and *Waste Management Northwest*, 331 NLRB No. 51 (2000).

In *R&D Trucking*, the Board reversed the Regional Director’s decision and found that a multi-facility unit was appropriate. The Respondent operated a freight moving company with two locations, approximately five miles apart. The union sought recognition for a unit that consisted primarily of drivers. The Board determined that the two facilities had substantial interchange of drivers between the two locations. *R&D Trucking, Inc., above at 532.*

In *Waste Management Northwest*, the Board reversed the Regional Director’s decision and found that a multi-facility unit was appropriate. The Respondent operated a portable toilet service with two locations, approximately 42 miles apart. As in *R&D Trucking*, the union sought recognition for a unit that consisted primarily of drivers. Contrary to the Regional Director’s findings, the Board determined that the Employer had submitted a sufficient amount of evidence to show employee interaction, coordination and interchange.

These cases are distinguishable. Both rely upon employee interchange. It is not a coincidence that *Waste Management Northwest* and *R&D Trucking* involve units of drivers. As a result of occupation, drivers, in general, have a much greater opportunity for interaction and interchange. The five and 42 mile distances between facilities were not an impediment to regular employee contact, interchange and coordination. In this case, the Union seeks representation of production and maintenance employees. Working out of one facility, there is little opportunity for interaction with employees at the Employer’s other four facilities almost 80 miles away.

This case is analogous to *Esco Corp.*, 298 NLRB 837 (1990) where the Board affirmed the Regional Director’s decision and found that a single-facility unit was appropriate. The

Respondent the manufactured and distributed fabricated metal products from three facilities located 174 and 346 miles from each other. The union sought recognition for a unit of predominately warehouse and sales employees. The Board found that the warehouse employees did not have sufficient contact with other employees hundreds of miles away. “The lack of regular and substantial interchange or contact between the Seattle warehouse employees and employees at other locations plus the great distances between locations outweigh the centralized operations and labor relations, limited local autonomy, and the common skills and functions of the employees at all three locations.” *Id* at 840. In light of the foregoing, I conclude a single facility unit is appropriate and direct an election in that unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.⁹ Employees engaged in any economic strike, who have

⁹Although the Union requested an examination of eligibility period, there was no evidence submitted that would necessitate a deviation from normal Board practice.

retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by United Automobile, Aerospace, & Agricultural Implement Workers of America-UAW

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to the list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 384 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer shall file with the undersigned, **two** copies of an election eligibility list, containing the **full** names (including first and last names) and addresses of all the eligible voters, and upon receipt, the undersigned shall make the list available to all parties to the election. To speed preliminary checking and the voting process itself, it is requested that the names be alphabetized. **In order to be timely filed,**

such list must be received in the Regional Office, Suite 700, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203 on or before November 22, 2002. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Washington, DC 20570. **This request must be received by the Board in Washington by November 29, 2002.**

Signed at Milwaukee, Wisconsin on this 15th day of November 2002.

Benjamin Mandelman, Acting Regional Director
National Labor Relations Board
Thirtieth Region
Henry S. Reuss Federal Plaza, Suite 700
310 West Wisconsin Avenue
Milwaukee, Wisconsin 53203

440 3300 0000 0000
440 8350 0000 0000
530 2025 3367 0000